

EXHIBIT K

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Statement by Susan McCabe

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Qualifications:

For twenty-five years, I have taught the study of literature and creative writing, with emphasis as well in film and gender studies and am a full professor of Literature and Creative Writing in the English Department of the University of Southern California. Previously, I served as the director of the Ph.D. Creative Writing Program for three years. The last five years I have taught in the Narrative Studies program, focusing upon structure, dialogue and character development. I have published two critical books, and two poetry volumes as well as numerous articles in feminist and literary journals. My dual biography of H.D. and Bryher, An Untold Love Story of Modernism is forthcoming from Oxford University Press. I routinely peer review books for major presses, and provide close readings of manuscripts for graduate students as well as teaching numerous writing workshops. My job, in essence, is to read and analyze texts, research, write and publish critical and creative works, and to enrich the intellectual life of my students, my peers and colleagues all over the world. I attach my Curriculum Vitae.

Opinions

I have been engaged by the Plaintiff Aimee Condayan to compare her original unpublished young adult novel, A Zine Called Mike, with a published novel, *Moxie*, by Jennifer Mathieu. I was

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provided with a first draft and a resubmitted manuscript of Condayan's A Zine as well as Mathieu's novel, collectively referred to as "the Exhibits." I was also supplied the information that the two writers shared the same agent, Sarah La Polla, to whom Condayan's submitted drafts of her unpublished novel during 2014 and 2015 before the writing and publication of Mathieu's *Moxie* in 2017. This statement provides my opinion after performing the aforesaid comparison.

Analyzing the exhibits exposes shared literary elements and a sustained pattern of selection and use of them to a striking degree in categories including, but not limited to, theme, setting, plot, sequence of events, character, language, dialogue, and mood. Given the fact that so many books in the genre of young adult fiction stem from high school settings where sexuality and sports play a central role, it is no surprise some overlap would exist. However, after careful review, I find the shared elements overwhelmingly substantial.

Theme

Rendered from the first-person perspective, the sixteen-year old protagonists, both Beth Ann Castle in A Zine and Vivian Carter in *Moxie*, protest sexual harassment and assault committed by high school football players in an anonymous "zine," a low-budget magazine. The zines arose in the 1990's in response to norms delineated in traditional slick glossies, such as *Cosmopolitan* and *Glamour*; they extolled principles of punk rock and feminism, inspired by Riot Grrl culture, which provides the backdrop for both texts. Each protagonist is motivated by a strong commitment for justice; both engage in romances with an artistic youth on the fringes of a small town, obsessed with its football stars. The players get away with a slate of oppressive behaviors, from slurs to rape. Both

stories, however, identically depict a triumph of truth over hypocrisy, and a young girl's struggle to speak out, while falling in love.

While many growing up novels for young adults share the theme of self-discovery and blossoming romance, they do not all turn, as do these exhibits, to the Riot Grrl movement of the 1990s as inspirational backstory. The sub-theme is also the same in both: the teenager must come to terms with her alienated mother, and create an alternate community of friends. Again, a mother-daughter bond as well as the struggles of single mothers are frequent themes in YA books, yet these can be handled other ways, not in the very specific ways these stories explore it. With the main theme as the desire to expose corruption through a group-effort, the sub-theme explores the plight of single working mothers. While Beth Ann's mother, Stephanie Castle, in Condayan's tale is a journalist (a natural influence upon her daughter's similar ambitions) and a nurse in Matheiu's, each protagonist rebels, while seeking stronger ties with their exhausted mothers, themes identical in both works. Even as other YA books reflect a cultural readiness to address sexual exploitation, this theme could have played out in a two-parent household or in an adoptive family; the theme also did not have to make the protagonist re-discover her mother as a feminist, embodied by the real-life Kathleen Hanna, the music pioneer and zine writer, who ignited the Riot Grrrl movement in the 1990s. Neither book needed to employ this very specific cultural icon for the sake of its themes. In other words, rebellion didn't need to result in both works return to both Hanna and to their mothers as precursor feminists.

Setting

Both Condayan and Mathieu set their tales in small towns. *A Zine Called Mike* is set in a Southern small, semi-rural, mountainous town, “Leslie,” apparently modeled on Condayan’s hometown of Salem, VA. *Moxie* is also set in a Southern small town, East Rockport. Both are stifling locations for each protagonist’s growth. The similarities don’t end here. The motive for the setting is the return of the mothers to their birthplaces, a socio-economic commentary. In *A Zine*, Beth Ann Castle’s mother, Stephanie, moved back to “Leslie” with her five-year old-daughter, whose father is estranged; in *Moxie*, after her husband dies, Vivian Carter’s mother return to Rockport when she is 8 months. The grandparents play a role in both texts. Beth Ann’s grandmother helps care for Mom and Beth Ann when they first move back; Vivian’s grandparents live next-door, and look after the adolescent while her mother works. In *A Zine*, the next door neighbor’s teenage son becomes Beth Ann’s artsy boyfriend, while Vivian bonds with the son of two artists. There is no necessity mandating that this young adult story of a single mother and daughter take place in a small Southern town rather than in a large metropolitan area or even a larger city, or that each establish their settings as “returns” for the mothers, and for the discovery of love through an artistic outsider. In addition, both novels make high-school football a huge attraction in a conservative Bible-belt community. One might have chosen the Northwest where Riot Grrls began.

Plot

The plot of *A Zine* finds sustained similarity in *Moxie*. In first person narration, the narrator gradually opens to develop or widen their perspective. The plot of both uses first person for immediacy and authenticity. Not all young adult fiction, needless to say, is told from first person;

some are written in a distant third-person perspective. Thus, it is not essential that the themes under scrutiny are told from the narrator's point of view.

The inciting, triggering event in both novels is the protagonists' discovery of a clue to her parent's past, the spark that drives the narrator towards punk culture, zines, and feminism. Condayan writes from Beth Ann's P-O-V: "We'd have been fossilized under laundry a long time ago if not for me," when she finds a "beat-up shoe box." Opening it, Beth Ann discovers "a row of cassette tapes, all of them had hand-written titles on white spines. [. . .] 'FEAR' was written inside." (Ch. 1) Matheiu relies on the same very *specific* "pandora's box" kind of inciting incident: Vivian "in the back bedroom find[s]a mountain of laundry in the middle of [her] mother's unmade bed," discovers "a flat, beat-up shoe box she keeps on her closet's top shelf. In black Sharpie it's labeled MY MISSPENT YOUTH." (11) In both novels, the mothers' pasts are stored under a pile laundry in a beaten-up shoe box. The contents of the boxes stimulate both narrators on a trail of discovery that ties their mothers to their present predicaments.

Beth Ann strives to become a music journalist for the school paper while seeking news of her estranged father. After being sexually assaulted by the star football player, she is inspired by the tapes in the box she found, and drawn into the music. She develops a friendship with Cass, a punk music fan, introduced by her love interest, Matt. Cass runs a zine called *Slit*. After Beth Ann's rape, she publishes a zine that makes it impossible for the coach to protect their star player. The truth is out. In a sub-plot, Stephanie, her mother, dates a man Beth Ann strongly disdains as a Christian conservative. In the end, Beth Ann discovers, through Cass, her mother's past as a rebel journalist:

Cass stood and shook Mom's hand. "Are you Stephanie Castle who wrote the book, *Hush*?

“I am,” Mom said with a confused smile. “Have you read the book?”

“Oh, I am so pleased to meet you, and yes, I have and it is one of the most moving stories I’ve ever read. Thank you for what you did for those kids. And I love reading your work in the paper. You’re like the feminist icon of Virginia—**The Kathleen Hanna** … of Leslie.” Cass looked to me. “You must be so proud of your mom, Beth Ann,” she said. (Ch. 25; 172)

The plot of *Moxie*, like A Zine, makes Kathleen Hanna and Riot Grrls prominent. Early on, Vivian watches a documentary on Riot Grrls, and considers her mother’s long since buried secret past as a “rebel girl”; she wonders about Kathleen Hanna and a “Riot Grrl Manifesto” (p.38) Vivian thinks of Hanna as “younger version of [her] mom” (p. 123), precisely what Cass perceives in Beth Ann’s mom. Vivian, the narrator of *Moxie*, disgusted by football players getting away with double standards and sexist acts, is inspired by Hanna, setting out to discover “ways for girls to find each other” and bond against chauvinism. (Ch. 4; p. 35).

Sequence of Events

The similarities in plot are startling as well as the sequence of events. Both begin with a similar back-story, and end up in similar towns. Both begin with a family gathering, and the discovery of a hidden box of music, inciting both protagonists to start a zine that exposes sexual harassment. Yet, given these similarities, one difference stands out, putting the similarities in relief. In Condayan’s story, Beth Ann is the victim, date-raped by mid-novel by the football hero, while Mathieu’s remains a bystander. Beth Ann ultimately manages “to tell” her story as much as those of others too ashamed to speak: “I’ve been doing all this writing about feminism and speaking out

about rape culture and the whole time it's been eating me up inside. So I have to tell." (Ch.28, 189) Mathieu likewise has her Vivian take the soap box for her idol, Hanna, whose "voice cries out— demanding to be heard as she sings about women and hurting and hunger and pain." (p. 192) Furthermore, the head cheerleaders in these exhibits are dead-ringers. But Mathieu's shifting the rape to the head cheer-leader is a slight deviation that starkly shows the otherwise resemblances in plot and sequencing of the events.

The first-person narrator in each novel definitely drives the sequence of events, moving from the discovery of boxes, keys to their mothers' pasts towards a resolution. With increasing unfairness towards the female students, both stories track a matching frustration. Each tale builds to Beth Ann finding a microphone, a "mike" to speak out against shaming females for being abused. Mathieu's more derivative title, *Moxie*, uses an adjective denoting a "fighting spirit," one exemplified by both writers.

Even more striking, the exhibits share a pivotal scene near each story's end: the outcry at school assembly in A Zine matches Vivian, championing a school walk-out. Beth Ann's friend, Cass Miller, hijacks the PA system during school assembly and anonymously reads Beth Ann's story that she was raped by the football star, Nathan. Both rebellions brings TV coverage followed with a scene, where the protagonist comes home to find her mother watching the news. For both Beth Ann and Vivian, this results in the mother and daughter hugging and crying, and coming to a new understanding. These scenes, their placements in narrative and their resolutions constitute substantial overlaps.

Characters

All main and supporting characters possess a familiar ring, accompanied even by sometimes same word-for-word descriptions. The personalities of these “mirrored” characters display only negligible differences. Condayan portrays Beth Ann’s mother, Stephanie, as “a strawberry-blond china doll,” whereas Vivian describes her mother as wearing “a tattered green baby doll dress.” Lisa, Vivian’s mother’s hair “slides down her back like a curtain after a performance.” (pp. 17-180.) Notably, A Zine contains a similar sentence: “Electric-orange hair fell in layers like hot lava oozing down her back” (p. 19), although it describes Jenny White, popular head-cheerleader. Both mothers are overworked, have long-hair, and date Conservative boyfriends: Condayan’s Howard matches Matheiu’s John, each considered disastrous choices by the teenage protagonists, Beth Ann and Vivian.

I have already demonstrated that both protagonists, Beth Ann and Vivian, possess identical motivation, turning to the Riot Grrls movement to break the silence around sexual assault. Beth Ann has Dyslexia, uses “text-to-voice programs,” situating the novel in contemporary times, and has a telling habit: “I scratched at my left thumbnail, a nervous habit I’d had since forever.” (Ch. 1, p. 6) Vivian shares a distinctive hand habit, for instance: “I have the urge to clench my fists again until the slivers of my mostly bitten fingernails dig into my palms.” (Ch. 3, p. 30) Throughout there are subtle replications in bodily expression. Beth Ann “balled [her] fists in a rage” (p. 7) when she is humiliated by Jenny in class, while Vivian, also being publicly humiliated, found her “hands are balled up into fists.” (p. 27) At one point, Beth Ann suffers her “stomach in knots” (p. 64), similar to Viv: “My stomach knots up” (p.123)

As the stories pivot towards activism, the teenage girls have mirror scenes: Beth Ann “went to the bathroom” where she “stared at [herself] in the mirror for a long time” (p. 141); Vivian depicts her mirror scene in kind: “Last night after I brushed my teeth and washed my face, I caught myself standing in front of the mirror for a full two-minutes.” (p. 135). The similarities, I note, might have ended here. But both go further: Beth Ann “narrowed [her] eyes” and “chopped [her] hair off at the neck,” and Vivian “looking into [her] own dark eyes” takes her “hair and pulled it up into a high ponytail.” While the outcome is different, both expressive acts are written in the same cadence.

These similar works also use architectural configurations to express character. Note how Beth Ann describes her room: “My room. I lived in a closet. The upstairs of our house was a loft. Mom used it as her bedroom, [. . .] I got her walk-in closet ‘till we move up in the world,’ her response: “I covered the walls with magazine pictures of sunsets.” (pp. 14-15) Mathieu’s “closet” room belongs not to Vivian, but to her new friend, Lucy Hernandez: “She leads me to a tiny bedroom the size of a walk-in closet...the rest of the room is covered too, with every inch of wall space decorated in postcards and music posters, and ripped out pages from magazines...” (pp. 216-217)

The supporting characters are another facet of similarity. In Zine, Lucy plays the counterpart for Condayan’s Cass Miller. Both Lucy and Cass, outsiders to the small town, similarly encourage and support the protagonists’ new desire to expose sexism.

With the main character, her mother and her new boyfriend as well as her new friend fulfilling identical roles, it is not surprising to meet more characters, near carbon copies. First,

Beth's budding romantic interest, Matt Rainn, remains an outsider, not participating in football, who plays in the school band as well as being a muralist, who "tossed hair out of his eyes but it fell back." (Ch. 3, p. 15). Vivian's developing love interest, Seth Acosta, has parents who are artists; like Matt, they exist on the fringe, with his hair "hanging in front of his eyes like he's trying to hide behind it." (Ch. 3, 23-24)

A motif of electricity circulates in both texts, distinctly tracking each character's excitement. Beth Ann says: "My blood felt like electricity." (p. 145), echoing an earlier passage when Beth Ann describes a smiling Jenny, "her silver nail polish with all the rest of the glistening doodads on her made her look almost like electricity." (A Zine, p. 98) Mathieu's Vivian thinks some boys "make [her] body go electric in the best way ever" (p. 178), with Seth sending "an electric shiver up my body" (p. 259).

Second, we meet the mirror characters of the "besties." Beth Ann's best friend from fourth grade, Ivy Lou Banner, dates a footballer, and the friends have a temporary falling out; Vivian also falls out with Claudia, best friend since kindergarten, who at first disapproves of zines.

Thirdly, Nathan Giles, attractive golden-boy football star and Beth Ann's rapist mirrors Marshall Wilson, the principal's son and ringleader of sexual harassment. He attempts to sexually assault the head cheerleader, Emma Johnson, who stands in for Condayan's Jenny White in A Zine. The cheerleaders are both wealthy straight A students. Jenny is the school paper's editor-in-chief; Emma is the Junior class president. Again, these character portraits belong to an extensive, sustained pattern of likenesses. The small deviations throw the similarities into further relief.

It is not only the characters themselves that recur. Both works present the tenor of relationships and trajectory of character similarly. For instance, Beth Ann and Vivian are critical at first of their overworked mothers. Both are bullied by the football heroes. While Beth Ann's grandmother, Betty, has died by the time the novel opens, Vivian has Meemaw and Grandpa as neighbors. However, other parallels are tacked on to these relatives who offer a safe harbor when no one is home—a condition common to both texts. Frozen dinners, like the empty houses, another similarity of place, the girls come home to, signify the narrator's sense of mother-neglect. Beth Ann narrates: "I made a frozen lemongrass chicken dinner for myself." (p.44) Later, Stephanie's love interest, Howard, sits "at the head of his table full of TV dinners he'd thawed out." (p. 103) The grandparents in *Moxie* watch *Wheel of Fortune* and serve "Stouffer's frozen dinner" for Vivian (Ch. 2, p. 9). In Condayan's first draft (pp. 80-81), Beth Ann grabbed a "frozen chicken and vegetables meal. Mom was shouting at the 'dummies' on *Wheel of Fortune*." Along with over resemblances in character in these Exhibits, some elements, such as the mention of the T.V. gameshow, were present in the first draft, but not in final draft, further underscoring textual similarity.

There is also a "this" for "that" parallel in character and plot development: when asked what she planned to write to pay the bills, Beth Ann tells her mother she would like be a music journalist and to author stories like "The Necklace" by Guy de Maupassant, read to her as a child (p. 196); Vivian reads Shirley Jackson's "The Lottery" "because [her] mom told [her] it was her favorite short story." (p. 130) Such echoes mark the Exhibits as over-similar. A classic story passed down orally from their mothers does not have to play any inevitable part in the narrative; it could have been a specific *novel*, film, or even music, from childhood.

Language

As the instances above illustrate, there exists an overlap between the language selected to describe very similar settings, plot, sequence of events as well as in characters, their trajectories, and their relationships. I offer a couple of other examples that show a through line of similarity when read beside other overlapping language. The turning point in A Zine occurs when footballer Nathan Giles lures Beth Ann to his family cabin, plies her with vodka, and rapes her, leaving her full of shame and denial. Beth Ann narrates: “I lost control of what happened. He moved me down flat on my back and climbed on top of me. He started grinding into me hard and it felt good and **hurt badly** at the same time. He was kissing me so hard I couldn’t talk, his stubble scratching my cheeks and chin. My mouth, my arms, my hips—**everything hurt**. [. . .] I held my breath. (Ch. 11, pp. 80-81). Mathieu depicts an assault upon Viv’s close friend. Claudia, who confides: “I told him to stop it. That he was **hurting** me. And he just, like, laughed it off, you know? He just had me stand there like that for what felt like forever, just pawing at me. I could feel his hot breath on my neck. And it **hurt**. It **hurt** so much.” (Ch. 15; p. 189)

Beth Ann soothes her friend, Ivy’s “hurt”: “Holy crap, he really is all about **asshole**, isn’t he.” “You know, this really **hurts** me!” she said, her voice quaking. (Ch 22) Both texts use “asshole” as the fail-safe cuss word; it occurs more than nine times in Mathieu, providing the adolescent sound-track. Viv thinks it was “[t]oo bad Mitchell Wilson and his **asshole friends** won’t even realize [her zine] exists.” (p. 53). It is not simply the use of these two words, “hurt” and “asshole” in isolation, but how they contribute to the angst-ridden tone of both teenagers.

Dialogue

There are numerous examples that show close resemblances between the dialogue in A ZINE and that which appears in *Moxie*. One excellent example takes place after a dinner. Beth Ann leaves in Matt's car, after they dined with Stephanie's love interest, Howard. They drive to a clearing on The Blue Ridge Parkway and talk about Beth Ann's uncertain future:

Matt: "...Let's go for a drive"

Beth Ann: "The view was magnificent with **distant lights sparkling and cars trailing yellow strings of light.**"

After a similarly awkward dinner with Seth's parents, Vivian leaves in Seth's car:

Seth: "Wanna go to the beach? If it's not too cold."

Vivian (narrating): "Outside in Seth's car...peering out the window of Seth's car, watching East Rockport at night zip past...Seth takes my hand in his....**The lights of East Rockport twinkle at us** from the other side of the bay."

Both scenes reflect the sense each narrator has of dislike towards their mother's suitors, played out in the heart-to-heart dialogue in A Zine (pp. 194-5), paralleling a similar scene in Mathieu. Condayan's Stephanie says: "Beth Ann, **I know you don't like Howard, but—**" matched up with Mathieu's mom, saying: "**I know you're not a fan of John**, but I really like him, Viv. **I really enjoy being with him.**" Beth Ann concludes, saying: "**You can do better, Stephanie.**" Viv similarly responds: "**You deserve someone nice.**" These highlighted lines share content as well as rhythm.

As a final example of plentiful dialogue similarity, the celebratory and cathartic climax at the end needs noting. I've already discussed the context of the scene: Cass hijacks the PA system

during school assembly and reads Beth Ann's confession she was raped by Nathan, football star.

The important overlapping dialogue occurs when Beth Ann comes home to find "**Mom was sitting on the couch watching the news.** I was on it, or my story was. Mom shot up like lightning. (p. 219)

The dialogue ensues:

'**Beth Ann?!** Were you at school today? Do you know anything about this girl at your school who was raped?...'

'**Oh, Honey.** Was this when....'

I was crying into her shoulder and I nodded my head and felt her embrace tighten. 'Oh my God, I'm so sorry. My baby, I'm so sorry.'

'**Were you afraid to go to the police?**' she asked, crying now, too. I nodded.But then you did and that's so brave. I'm so proud of you," she said. I blinked."

The counterpart in Mathieu, as mentioned, was anonymous Moxie zines and flyers covering the doors to the school, and Viv has a similar encounter with her mother that Beth Ann had:

On p. 308:

"I just heard something about this on the radio,' my mom says, **her eyes focusing on the television screen.** '**Vivvy,**' she says, her mouth opening, her eyes widening. '**Sweetheart,** is that you on TV?' ...at this my mom's eyes turn glassy almost immediately....a few tears snake down her face.... '**You didn't feel like you could tell me?**' 'I'm crying because I'm **proud** and surprised."

The whole scene could have been executed quite differently. The mother might have rushed to the door; she might have come to the school or the two might have met as the protagonist fled the

school and her mother came to rescue her teenager. But in both texts, the protagonist comes home to find their mothers watching their activism on television.

Tone

The tone of both novels is sardonic and wistful. This sentence from Condayan is emblematic of Beth Ann's precocious perspective: "I wondered what the legal threshold was for irresponsibility." (p. 178) Mathieu's sassy and "dutiful" Viv wrestles with her mother's choice in men, as does Beth. Viv is wistful: "Sometimes I wonder if it's possible to feel nostalgic for something you never actually got to experience yourself," referring to the Riot Grrls. (Ch. 4, p. 35), suggestive of an attenuated connection to the subject matter. Viv also articulates the essence of this report: "I spill out all of my mom's old zines for the hundredth time and look at them with fresh eyes. I'm taking notes. Or, to be totally honest, I'm kind of stealing." (p. 92)

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In conclusion, I have found sustained similarities in the Exhibits. I can confirm Condayan's sense that her theme, plot development, sequence of events, characters, language, dialogue and mood show remarkable unmistakable similarity to Mathieu's published novel, *Moxie*.

Time-Line

Based on the client's information, the "opportunity" and "means" were present for Mathieu to read Condayan's work. Condayan queried the agent, Sarah La Polla, with a sample of A Zine. La Polla requested the full manuscript in January 2014, gushing over the Riot Grrrl subject matter. By March, La Polla asked for a revision with "a focus on pacing and plot development." After

resubmitting it, Condayan received a rejection, dated February 6, 2015, La Polla stating she lacked interest in “the non-contemporary setting” of the 90s youth culture, though it is clear Condayan sets the novel in the present digital era.

La Polla was Mathieu’s agent during the period when she held both drafts of Condayan’s novel. As early as May 2014, there’s a tweet from the agent calling Mathieu her “favorite riot grrl,” suggestive that there is at least another one (i.e. Condayan). Another tweet from Mathieu bragging about her “wonderful agent.” (June 1, 2015). By September 22, 2015, Mathieu posts that she has a new agent, Kerry Sparks, and announcing that she’d *sold Moxie*, and the publisher bought it (in a two-book deal). *Moxie* was published in September 2017.

But significantly, Condayan’s unpublished work, an original submission and a revision was with La Polla when Mathieu was La Polla’s client, making the sharing of A Zine the most viable explanation for excessive similarities in these texts. Condayan did not have any conduit to interview Mathieu’s novel in any form before it was published. In interviews about the book when it was published in 2017, Mathieu admits she did not have “a ton of ideas,” and this one “just came to [her] in a rush.” (September 2017) By November 2019, her book was sold to Netflix.

Respectfully submitted,

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